



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 20, 2004, 8:00 p.m.

MEETING

The Meeting of the Special Joint City Council/Redevelopment Agency was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Ward.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Quirk, Halliday, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: COUNCIL/RA MEMBERS None

PUBLIC COMMENTS

Harry Bruno, commented on past Council actions and spoke on the recall.

Jason Moreno, read a statement regarding government.

Barbara Heringer-Swarr commented on films shown at Chabot College on the topic of globalization.

Mayor Cooper asked for information on a particular film.

Al Reynolds recommended that the acting police chief be made permanent.

Michael Cox stated that he signed the recall document.

Zack Bruno talked about activities for young people and the marquee at Centennial Hall. He further spoke in favor of the cinema project, as well as the recall.

CONSENT

Item 2 was removed for separate vote.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 13, 2004

It was moved by Council/RA Member Ward, seconded by Council/RA Dowling, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of July 13, 2004.

2. Pavement Reconstruction 2002-03: Approval of Addendum and Award of Contract

Jason Moreno commented on a traffic hazard where yellow striping is needed.

Staff report submitted by Deputy Director of Public Works Bauman, dated July 20, 2004, was filed.

It was moved by Council Member Henson, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 04-120, "Resolution Approving Addendum No. 1 and Awarding Contract to G. Bortolotto & Company, Inc., for the Pavement Reconstruction 2002-03 Project, Project No. 5177"

3. Authorization for the City Manager to Approve Assignment of the Lease between the City of Hayward and Dennis McDonald to Hayward Hangars, LLC

Staff report submitted by Airport Manager Shiner, dated July 20, 2004, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 04-117, "Resolution Authorizing the City Manager to Approve and Execute an Assignment of the Lease Between the City of Hayward and Dennis McDonald to Hayward Hangars, LLC"

4. Adoption of Positions and Salaries Resolution for Fiscal Year 2004-2005

Staff report submitted by Human Resources Director Perrin-Scales, dated July 20, 2004, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 04-118, "Resolution Designating Positions of Employment in the City Government of the City of Hayward; Providing for their Number and Salary Range; and Superseding Resolution No. 03-095 and All Amendments Thereto"

5. Traffic Signal at Huntwood Avenue and Schafer Road, Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated July 20, 2004, was filed.



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It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 04-119, "Resolution Approving Addendum No. 1 and Awarding Contract to Prism Engineering, Inc., for the Traffic Signal Installation on Huntwood Avenue at Schafer Road Project, Project No. 5753"

HEARINGS

6. Cinema Place

- A. Zone Change Application PL 2004-0322 to Change Zoning to Construct a Commercial Complex Containing a 12-Screen Cinema, Restaurants, Retail Spaces and Parking Structure, and Allow Sales of Alcoholic Beverages – Field Paoli Architects (Applicant), Hayward Redevelopment Agency (Owner) – Project Located at 22695 Foothill Boulevard

Staff report submitted by Planning Manager Anderly, dated July 20, 2004.

Planning Manager Anderly presented the staff report, showing a video simulation and slides of the elevations, the proposed retail space on the lower level, the theater on the second level and the project ingresses. She noted the main entrance will be on B Street. She responded to Council questions.

Staff responded to Council Members questions related to street patterns and whether C Street would be bi-directional as well as the level of service. It was noted that having C Street bi-directional could cause potential bottlenecks, but there would be left-turn opportunities from north bound Foothill to B Street. The parking garage will have three points of entry, from C Street, from Foothill, and from B Street, and would be properly signed including the area for general public parking. The public will need to be made aware of the municipal lots and that there is ample parking in the downtown area.

- B. Consideration of Disposition and Development Agreement with Cinema Place Hayward, LLC, For Development of an Entertainment-Oriented Retail Complex at B Street and Foothill Boulevard

Staff report submitted by Redevelopment Director Bartlett, dated July 20, 2004, was filed.

Redevelopment Director Bartlett presented the staff report related to the Redevelopment Agency. She discussed the terms of the ground lease with a potential of sixty years, noting that the Agency will have limited rights to the tenants in the building. She also discussed the disposition and development agreement and other financial obligations. The Agency will need to obtain a, "no further action" letter from the Regional Water Quality Control Board due to some contamination from a past dry cleaning

DRAFT

operation and there would be continued ongoing monitoring. She noted that the lower two levels would be owned by retailer and the upper two levels owned by the Agency. The Council will be considering an ordinance to limit other theaters from operating in the City. In regards to parking, there will be several hundred parking spaces available above the requirement.

Mayor/Chair Cooper opened the public hearing at 9:29 p.m.

Barbara Heringer-Swarr suggested that the model be at the next monthly Street Fair on B Street and felt that it was a massive project. She discussed the cost per square foot. She asked if there was an agreement with the developer regarding the sale of the project in the future. She urged reconsideration of the financing involved with this project.

Linda Pratt of COMMPRE expressed reasons for denying the alcoholic beverage. She asked that added regulations such as, no happy hours, no cover charges, and exclude nightclub uses, signs and set hours of sale of alcohol and require all alcohol licenses be reviewed through the police department. She referenced the Walnut Creek Council's action in controlling alcohol and the ordinance they adopted. She urged a public review of this alcohol license.

Brian Schott spoke in favor of the project, noting the long-time vacancy of the site. In regards to the suggestion to dedicate one screen for foreign films, he stated that this is an enterprise venue, not a cultural center. He noted that the theater operator is experienced in determining what is shown.

Jason Moreno suggested car pooling parking spaces and dedicated parking for seniors.

Bradley Hunt, CEO of Blake-Hunt Ventures, stated that his firm's developments have generated more than 5000 jobs and with his partners have donated several hundred thousand dollars towards community efforts. He stated that he has worked with staff for about a year and this is a collective effort. He felt that this is a high quality project and referred to other similar developments in other cities. He introduced Jim Wright, a partner, and the project architect. In regards to the investors of this project, he reported that the City is investing \$3.4 million in property and a public parking garage. His firm is investing about \$15.8 million and Century Theaters is investing more than \$10 million. He described his experience with Redwood City. It is not an uncommon in cities where the Redevelopment Agency invests in development. The City ultimately will get a return on its investment.

Mr. Hunt responded to questions previously asked. He indicated that he is working with staff on colors and design. He noted that Century has committed to showing independent films. He discussed the COMMPRE issues and asked that there be flexibility in having two or three restaurants with bars. He agreed to a rigorous review when applying for an alcohol license and could comply with COMMPRE if the process is not cumbersome. He suggested a condition of approval be included to forbid the sale of alcohol at fast-food shops. He agreed that public art can be displayed in the public pedestrian alley way. He noted that auditorium sizes vary from 100-350 seats. There is access to and from the garage using elevators and the project is handicapped accessible and fully ADA compliant.

Council/RA Member Halliday reiterated the need for showing and promoting independent films. She suggested an agreement with staff and the theater group. She felt that limits should be in placed on the sale of alcohol. She also asked about the reconfiguration of the parking.



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Mayor/Chair Cooper closed the public hearing at 10:17 p.m.

Council/RA Member Ward asked about the safeguards of the Agency to protect the City in the lease agreement and the use of the land, and was informed that staff has endeavored to provide safeguards. Redevelopment Agency Director Bartlett stated that during the design phase an engineer's cost estimate will be evaluated to insure that costs are reasonable. In maintenance, the agreement is being negotiated to stay within Redevelopment Agency guidelines. Additionally, there will be an ordinance that will limit another theater located in Hayward. In regards to parking, there will be several hundred parking spaces available above the requirement.

Council/RA Member Quirk asked for a clarification on the requirement standards for parking structures and its configuration. Staff noted that there would be no parking on the west side of the theater. He also asked about the water feature and was concerned about its appearance during a drought, which staff noted would be addressed in the design. Staff also responded to his questions on signage and the restaurants that will be located on the second level.

Council/RA Member Ward expressed concerns associated with finding contaminants on this site. He asked if the City has looked into the environmental issues. Staff discussed that the site has been tested and the Regional Water Quality Board will be monitoring it. There are two forms of chlorinated solvents that are commonly found in dry cleaners that will require a soil vapor barrier. She noted that there is the risk, if any, during construction. Lastly, she noted that there is another MTBE contaminant on the site where the gas station was situated and the City is liable for its monitoring.

Mayor/Chair Cooper asked about the one-way escalator and whether it would accommodate wheelchairs and strollers. She commented on the box-like exterior and hoped for a more attractive building. She was concerned about the four-storied garage and how a disabled person could maneuver.

Council/RA Members Dowling and Halliday suggested that movie posters and any advertising on Foothill Boulevard should be of high quality design, not billboards, which could generate more revenue. They also favored and urged public art on the building.

Council/RA Member Ward appreciated the efforts of the developer and believed the proposed architectural treatment is good. He discussed how this is a part of the focal point in relation to the entire downtown and another City effort to have places of enjoyment in the downtown.

It was moved by Council/RA Member Jimenez, seconded by Council/RA Member Quirk, and unanimously carried to adopt the following:

Introduce Ordinance No. 04-____, "An Ordinance Amending the
Zoning District Map of Chapter 10, Article 1 of the Hayward

Municipal Code by Changing the Zoning from Central City – Plaza and Central – Commercial to Planned Development District Pursuant to Zone Change Application No. PL-2004-0322”

Resolution 04-121, “Resolution Approving the Mitigated Negative Declaration and Mitigated Monitoring Program and Zone Change Application No. PL 2004-0322”

RA Resolution 04-11, “A Resolution of the Redevelopment Agency of the City of Hayward Approving and Authorizing the Execution of a Disposition and Development Agreement Between the Redevelopment Agency of the City of Hayward and Cinema Place Hayward, LLC, and Authorizing the Execution of a Cooperation Agreement with the City of Hayward”

Resolution 04-122, “A Resolution of the City Council of the City of Hayward Approving and Authorizing the Execution of a Disposition and Development Agreement Between the Redevelopment Agency of the City of Hayward and Cinema Place Hayward, LLC, and Authorizing the Execution of a Cooperation Agreement with the Redevelopment Agency of the City of Hayward”

There was a brief four minute recess. Public Hearing Item #8 was held prior to #7.

7. Appeal of Planning Commission Denial of Variance Application No. PL-2004-0073 – Aaron and Denise Larson (Applicant/Owner) – Request to Retain an 8-Foot Fence Along the Side and Rear Property Lines – The Property is Located at 24099 Malibu Road

Staff report submitted by Associate Planner Emura, dated July 20, 2004.

Planning Manager Anderly made the staff report, listing the comments from neighbors opposing the fence height as well as the Planning Commission’s denial.

Mayor Cooper opened the public hearing at 11:46 p.m.

Elizabeth and Sheung Chai spoke in opposition of the 8-foot fence.

Mayor Cooper closed the public hearing at 11:48 p.m., thanking them for their patience.

Council Member Henson felt that there needs to be a larger discussion of fence heights throughout the City, while Council Member Dowling and Mayor Cooper thought the current height requirement should remain.

Council Member Henson moved, seconded by Council Member Ward, and unanimously carried to adopt the following:



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Resolution 04-123, "A Resolution Denying the Appeal and Upholding the Planning Commission's Denial of Variance Application No. PL-2004-0073"

8. Appeal of PL-2002-0099 Use Permit – Robert Lavassani (Applicant/Owner) – Request to Construct a Restaurant with a Bar and Night Club – The Property is Located at 1705 West Winton Avenue in an Industrial (I) District

Staff report submitted by Assistant Planner Koonze, dated July 20, 2004.

Planning Manager Anderly presented the staff report, showed the elevations, renderings and the floor plans. She discussed the conditions of approval including particular safeguards and made the staff recommendations. She noted that two industrial property owners across the site that objected to the project.

Council Member Jimenez asked for a clarification on the Mediterranean design and the recommendation of the Planning Commission. In response to Council Member Quirk's question on why no pay phone on the outside of the building, staff responded that this is to limit criminal activity. Council Member Henson asked about truck traffic activity. Council Member Halliday asked how minors will be excluded after 10 p.m.

Mayor Cooper opened the public hearing at 10:42 p.m.

Elaine Sunday, Hayward Mobile Homeowners representative, stated that she is the on site manager at the mobile home park located at 1200 West Winton Avenue. She had a list of over 60 other tenants that were not in support the nightclub portion of the project. She expressed concerns against intoxicated drivers, those spinning "donuts" with their autos, and the safety of the seniors. She did not think that a security guard would be sufficient.

Catherine Potenti, a mobile home resident, spoke in support of the restaurant.

Isabel Hernandez spoke in opposition to the night club as it would be a risk to underage drinking.

Linda Pratt, representing COMMPRE, the appellant, stated that COMMPRE was in favor of the construction of the restaurant. She commented that COMMPRE is in favor of the license type No. 47 that allows minors at all hours, and questioned who would be the applicant for this type of alcohol license. The nightclub has a potential of decreasing the quality of life due to public drunkenness and related detrimental activities. COMMPRE objects to allowing the nightclub portion, but would not object to the bar and restaurant.

Helen Safdari, 1705 West Winton Avenue stated that her neighbors feel that this is a good project.

Ray Noel lives across from the restaurant site. He stated that it is a very quiet neighborhood and spoke in favor of its construction.

Jay Yinger, project manager and the owner's representative, stated that he works with Mr. Lavassani, who will be the restaurant operator. He felt that this will be a viable project. He addressed the concerns regarding the license type and noted that the request will be from the applicant. The desire is to make this a community activity center with live music that can be used for banquets and weddings. The building design is a diversity of various cultures.

There was Council discussion related to the building design. There was similar discussion regarding the condition of approval denying minors be present after 10:00 p.m. It was noted by the applicant that the restaurant operator would need to notify underage patrons that they need to leave the facility. The applicant wanted this condition removed or changed to midnight.

Acting Lieutenant Bird responded to Council Member Ward's question, stating that the conditions of approval include having security guards that must be licensed and trained. He cited criteria for security guards, but noted that it will depend on what type of clientele is attracted. The ratio of one security guard per 100 guests was considered adequate. He reiterated past police activity experience at a nearby restaurant/nightclub, Sonoma (formerly Manzella's Loft).

City Attorney O'Toole reported that Council could not censor music, but the condition to not lease out the premises to promoters can be required.

Council Member Henson asked for a legal opinion on requiring surveillance cameras. City Attorney O'Toole advised that this could be required in a situation where there had been a previous detrimental experience.

In response to Council Member Henson's question, Mr. Lavassani responded that he currently owns three lots where the restaurant will be constructed. He inquired on some other sites in the downtown, but they were too close to residential areas. In the past he operated a restaurant, and currently owns a deli-grocery store on Mohr Drive and is interested in having a good place to eat and be entertained.

Council Member Dowling asked the owner how he would draw clientele and asked about the business plan as this is a pretty deserted area after work hours. He asked whether this would be a banquet facility. To address the neighborhood concerns, he asked whether hours of operation could be restricted or modified.

Mr. Yinger concurred that with a nightclub, the facility could host banquets, but first and foremost would be the restaurant. He noted that the clientele would determine the hours.

Mayor Cooper stated that she was concerned that some things have not been clarified. She was not pleased with the façade of the building. She noted that there is no clear vision of the entertainment that will be presented, or the food that will be served. She was in favor of having banquet facilities, but was



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concerned about the location of the bar. She was not comfortable with having some of the conditions yet to be etched out with staff.

Barbara Heringer-Swarr spoke in support of the restaurant owner and she commented that Yeoman's is in the industrial area and is full on a regular basis.

Mayor Cooper closed the public hearing at 11:31 p.m.

There was discussion related to the definition of a night club that includes dancing and banquet facilities.

Council Member Jimenez moved the staff recommendation. Council Member Ward stated that he would be supporting the motion and asked for an explanation for deleting three conditions. He indicated that the police department was concerned that a security guard could address issues that occur in the parking lot such as 'donuts' and noise. He asked that the three conditions be included and urged Mr. Yinger to work with staff to satisfy these conditions that were discussed relating to design and color.

Council Member Jimenez agreed.

Council Member Halliday had some concerns about the location, but felt that this community needs more activities and what Mr. Lavassani intends to have. She assured the neighbors that the Council can revoke the use permit if necessary. She urged the community to provide input when concerned and to bring attention to illegal activities.

Mayor Cooper wanted to limit the hours of operations, but was advised by the City Attorney that the ABC licensing division sets the hours.

Council Member Henson urged the owner to consider placing cameras to monitor the parking area.

It was moved by Council Member Jimenez, seconded by Council Member Quirk, and unanimously carried to adopt the following resolution and include Conditions #9, 10, 11 related to design:

Resolution 04-124, "A Resolution Denying the Appeal and Upholding the Planning Commission's Approval of Use Permit PL-2002-0098"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

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Mayor Cooper adjourned the meeting at 11:52 p.m., with Council Member Jimenez adjourning in memory of Barbara Taylor, former Administrative Assistant to the City Manager, who was with the City of Hayward for over forty years. He stated that she was a charming, friendly, and competent lady. Additionally, Council Member Ward had the opportunity to adjourn in memory of Emory Jenkins, son of Frank and Ruth Jenkins. He was a graduate of Cal State Hayward.

APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency